

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MARIA COTO, *individually and on behalf of*
Other similarly situated individuals,

Plaintiff,

vs.

Case No. 1:25-cv-00160 KWR/GJF

SENTRY INSURANCE COMPANY,
VIKING INSURANCE COMPANY OF WISCONSIN,
and DAIRYLAND INSURANCE COMPANY,

Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court upon three motions by the Defendants:

- Defendants' Motion to Strike Plaintiff's Putative Class Allegations (Doc. 7);
- Defendants DairyLand Insurance Company's and Sentry Insurance Company's Motion to Dismiss (Doc. 8); and
- Defendant Viking Insurance Company of Wisconsin's Motion to Dismiss (Doc. 9).

Plaintiff responded to these motions by filing an amended complaint within 21 days of the filing of motions. *See* First Amended Complaint, Doc. 14. Generally, a plaintiff may amend their complaint as a matter of course within 21 days after service of a motion under Rule 12(b). Fed. R. Civ. P. 15(a)(1).

Because Plaintiff has filed an amended complaint, Defendants' motions, all of which attack or seek dismissal of Plaintiff's original complaint, are moot. *See, e.g., Bledsoe v. Jefferson Cty., Kansas*, No. 16-2296-DDC-JPO, 2019 WL 4573412, at *3 (D. Kan. Sept. 20, 2019) (motion for judgment on pleadings denied as moot after granting motion to amend complaint); *Strich v. United*

States, No. 09-cv-01913- REB-KLM, 2010 WL 14826, at *1 (D. Colo.) Jan. 11, 2010) (citations omitted) (“The filing of an amended complaint moots a motion to dismiss directed at the complaint that is supplanted and superseded.”); *AJB Props., Ltd. v. Zarda Bar-B-Q of Lenexa, LLC*, No. 09-2021-JWL, 2009 WL 1140185, at *1 (D. Kan. April 28, 2009) (finding that amended complaint superseded original complaint and accordingly, defendant’s motion to dismiss the original complaint is denied as moot”); *Gotfredson v. Larsen LP*, 432 F. Supp. 2d 1163, 1172 (D. Colo. 2006) (noting that defendants’ motions to dismiss are “technically moot because they are directed at a pleading that is no longer operative”). Defendants may file new motions or pleadings responsive to Plaintiff’s First Amended Complaint.

IT IS THEREFORE ORDERED that the following motions are **DENIED AS MOOT**:

- Defendants’ Motion to Strike Plaintiff’s Putative Class Allegations (Doc. 7);
- Defendants DairyLand Insurance Company’s and Sentry Insurance Company’s Motion to Dismiss (Doc. 8); and
- Defendant Viking Insurance Company of Wisconsin’s Motion to Dismiss (Doc. 9).

 /S/
 KEA W. RIGGS
 UNITED STATES DISTRICT JUDGE